

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CURTIS BRANDON,) 2:02cv343
) Electronic Filing
)
Plaintiff,) District Judge Cercone
) Magistrate Judge Lenihan
v.)
)
SGT. NAZOROVICH; BRIAN)
KNIGHT; KOTOMSKI; MAGILL;)
ABRAMS; GLABB; KAREN DANNER,)
RN; MELVIN LOCKETT; PHILIP)
JOHNSON, Superintendent;)
CAPT. CHARLES J. SIMPSON;)
UNNAMED FEMALE GUARD; M.J.)
MATTHEWS; MICHAEL FERSON; LT.)
BLAKELY; FRED POLANDO, PA-C;)
ROBERT S. BITNER; THOMAS L.)
JAMES,)

Defendants.

MEMORANDUM ORDER

Plaintiff's Complaint was received by the Clerk of Court on February 13, 2002, and was referred to United States Magistrate Ila Jeanne Sensenich for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. The case was transferred to Magistrate Judge Lisa Pupo Lenihan on April 6, 2004.

A Report and Recommendation (doc. no. 98) filed on August 17, 2004, recommended that the Motion for Summary Judgment filed by Defendant Polando (doc. no. 78) be granted.

Plaintiff was served with the Report and Recommendation at S.C.I. Graterford, and given 10 days to file objections. On September 7, 2007, Plaintiff filed a Motion to Hold the Case in Abeyance (doc. no. 100) on September 7, 2004 because he was to undergo spinal surgery and would be unable to file objections to the report and recommendation. Plaintiff did not indicate how long his recovery from surgery would take, leaving the Court to speculate that he faced a long period of time in which he would be unable to pursue this litigation. As a consequence, the Court administratively closed this action without prejudice on September 30, 2004 (doc. no. 101).

On November 13, 2007, this Court ordered Plaintiff to file objections to the Report and Recommendation no later than January 21, 2008 (doc. no. 142). In response, Plaintiff filed a Motion for Temporary Restraining Order and Preliminary Injunction and Extension of Time to file Objections alleging that he did not have his legal documents available to him to allow him to file objections to the Report and Recommendation. The Court held a status conference on January 17, 2008 where it learned that Plaintiff had been placed in the RHU and did not have access to his legal materials but that he was expected to be released back to general population by February 8, 2008 where he would be allowed access to his legal boxes. Therefore, the Court granted Plaintiff's Motion for an extension of time to file his objections until March 8, 2008.

On February 20, 2008, Magistrate Judge Lisa Pupo Lenihan filed a Report and Recommendation to deny Plaintiff's motion for injunctive relief (doc. no. 150). Plaintiff filed Objections to the Report and Recommendation on March 6, 2008 (doc. no. 155). Plaintiff's objections do not undermine the recommendation of the Magistrate Judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 15th day of April, 2008;

IT IS HEREBY ORDERED that Plaintiff's Motion for Temporary Restraining Order/Motion for Preliminary Injunction (doc. no. 147) is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation dated February 20, 2008 (doc. no. 150) is **ADOPTED** as the Opinion of the Court.

DS Ceron

David Stewart Ceron
United States District Judge

cc: Lisa Pupo Lenihan
U.S. Magistrate Judge

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all counsel of record